

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

EDUARDO BALDERRAMA,

Plaintiff,

v.

No. 2:18-cv-00134-KRS-GBW

CITY OF ALAMOGORDO, and
MARGARET PALUCH, individually
and in her official capacity as City
Manager for the City of Alamogordo,

Defendants.

TRIAL SCHEDULING ORDER

THIS MATTER comes before the Court following a telephonic trial scheduling conference held June 4, 2018. As reflected in the record, the Court hereby sets the following dates and deadlines:

A **Pretrial Conference** shall be held on **April 4, 2019 at 2:00 p.m.** in the Picacho Courtroom at the United States Courthouse, 100 N. Church St., Las Cruces, NM, 88001. All attorneys participating in the trial must be present for the pretrial conference unless permission for telephonic appearance has been obtained from the Court. The parties may, but need not, be present.

Jury Selection and Jury Trial will begin on **April 22, 2019 at 8:30 a.m.** in the Picacho Courtroom. Counsel are directed to submit a proposed consolidated final pretrial order (template pretrial order attached) as follows:

Plaintiff to Defendants: **on or before December 31, 2018;**

Defendants to the Court: **on or before January 14, 2019.**

The pretrial order shall provide that no witness, except rebuttal witnesses whose testimony cannot be anticipated, will be permitted to testify unless the witness is identified in a witness list filed no later than thirty (30) days prior to the date set for trial. Any exceptions thereto must be upon order of the Court for good cause shown.

Motions in Limine: All motions in limine¹ shall be filed **on or before November 9, 2018 in accordance with the Pretrial Scheduling Order (Doc. 20). Responses and replies are governed by the deadlines set forth in the Pretrial Scheduling Order.**

Witness Lists: The parties shall file their witness lists **on or before February 1, 2019**. The lists must disclose witnesses that the parties “will call” as well as witnesses that they “may call” at trial. Any objections to a witness named by an opposing party must be filed by **February 15, 2019**.

Designations and Counter-Designations of Deposition Testimony: **On or before February 21, 2019**, counsel for each party shall file a pleading designating, by deposition transcript page(s) and line number(s), the deposition testimony that the party intends to offer into evidence at trial. In the event that a party designates deposition testimony that will or may be offered into evidence at trial, then **on or before March 1, 2019**, any other party may counter-designate, by deposition transcript page(s) and line number(s), any other portion of the deposition testimony that should be offered into evidence pursuant to Federal Rule of Evidence 106. The deposition designation requirement does not apply to the use of a deposition to impeach the testimony of a witness who testifies in person at the trial, or to rebuttal testimony offered through deposition testimony.

¹ Motions challenging the admissibility of expert testimony under *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993) are not motions in limine. Daubert motions shall be filed no later than the dispositive motions deadline.

On or before March 1, 2019, counsel shall **jointly submit one physical copy** of each deposition transcript that contains testimony that will or may be offered into evidence at trial to the Court's chambers, with the parts of the deposition(s) that are to be offered into evidence highlighted. To this end, Plaintiff will use a yellow marker and Defendants will use a blue marker to highlight the portions of the deposition transcript that they each have designated. As an alternative to jointly submitting a physical copy of a deposition to the Court with the designated portions of the deposition highlighted, the parties may jointly submit the deposition to the Court in PDF format, with the respective portions of the deposition highlighted, by emailing the PDF document to krsproposedtext@nmcourt.fed.us. Any objections to deposition testimony designated or counter-designated by an opposing party shall be filed **on or before March 8, 2019**. In the event a party wishes to make further designations or counter-designations of deposition testimony, other than those designations made in conformance with the procedure set forth above, the party shall first seek permission from the Court.

Exhibits: **On or before March 1, 2019** the parties shall **jointly** file a list of exhibits that the parties stipulate may be admitted into evidence without objection. **On or before March 8, 2019** each party shall file a list containing the exhibits that the party will or may offer into evidence, other than those exhibits for which the parties have stipulated to the admission into evidence. **On or before March 8, 2019**, the parties shall **jointly** submit a physical copy of all exhibits to the Court's chambers. The exhibits shall be divided into two notebooks. One notebook shall include all exhibits, labeled consecutively, that the parties stipulate may be admitted into evidence without objection. The other notebook shall include all exhibits the parties have not stipulated may be admitted into evidence, labeled consecutively beginning with the next sequential number after the final stipulated exhibit designation. For instance, if there are fifty (50) stipulated exhibits, twenty (20) contested plaintiff's exhibits, and twenty (20) contested

defendants' exhibits, one notebook shall contain stipulated exhibits numbered 1 to 50. The other notebook shall contain plaintiffs' contested exhibits numbered 51 through 70 and defendants' contested exhibits numbered 71 through 90.

On or before February 21, 2019 each party shall send a list of their proposed exhibits to the opposing party in order to allow sufficient time for a party to determine whether to object to the admission of an exhibit.

Statement of the Case: On or before March 8, 2019 the parties shall file a consolidated clear, concise statement of the case to be read by the Court to the jury at the beginning of trial. If Counsel are unable to agree to a consolidated statement of the case, they shall file separate statements of the case. The parties shall meet **on or before March 1, 2018** and confer about the statement of the case.

Jury Instructions: On or before March 8, 2019 the parties shall meet and confer to discuss proposed jury instructions. Plaintiff shall file a set of requested jury instructions upon which all of the parties agree. Requested instructions upon which the parties cannot agree must be filed separately by the requesting party. There shall be only one instruction per page and each instruction shall include a citation to supporting authority at the bottom of the page. **On or before March 15, 2019** all requested jury instructions shall be filed. On that same day, the parties shall also email a copy of the requested jury instructions in Word format, without citations, to krsproposedtext@nmcourt.fed.us. On or before **March 21, 2019** a party shall file a pleading setting forth any objections to an opposing party's requested instructions.

IT IS SO ORDERED.



KEVIN R. SWEAZEA
UNITED STATES MAGISTRATE JUDGE